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Art Unit 3637
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From: Werner H. Schroeder
Patent Agent
Reg. No 36,387

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~~Comments:~~ Appl. NO: 10/679,469

Response to a Final Rejection

Donald Edwards

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PTO/96/21 (08-04)

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Application Number	10/679,489
Filing Date	10/07/2003
First Named Inventor	Kevin T. Connolly
Art Unit	3837
Examiner Name	Timothy Michael Ayres
Attorney Docket Number	

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
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<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

Remarks
Amendment after FINAL
Attachment: Amended claims 1 - 50

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT:

Firm Name			
Signature			
Printed name	Werner H. Schroeder		
Date	11/28/05	Reg. No.	36,387

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Signature	
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Date	11/28/05

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Response to a second and Final Office Action

Application SN. 10/679,489

This communication is a response to a Final Office Action having a mailing date of 11/17/2005 and setting forth a shortened statutory period for response of three months which would expire on 02/17/2006.

In response to the Office Action the applicant will follow the examiner's paragraphs as they appear in the action:

Under the heading DETAILED ACTION the examiner states that "this is the final office action on the merits".

The applicant lodges a protest that this action was made FINAL:

- 1). The examiner has cited a new reference in rejecting claims 6 - 10, 12, 13 15, 16, 22, 23, 25, 27, 32, 33, 36, 45, and 48. The citation of the new reference was not amendment provoked and therefore, the action should not have been made final. The examiner has raised a new issue.
- 2). The examiner has rejected claims 1, 14, 17 - 20, 28 - 31, 34, 35, 37, 39, 41, 42 and 47 - 50 under the judicially created doctrine of non-statutory double patenting.

This issue is being raised for the first time and, therefore, the action should not have been final.

1. the claim objections have been considered and have been corrected.

2 -10. The claims rejected under 35 U.S.C. 112 have been corrected.

11 - 13. Claims 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen in view of Briggs. The examiner admits that Jensen does not expressly disclose the children's play area as a platform that is suspended from vertical columns and having play devices on it. The examiner then cites "Webster's II Riverside Dictionary to interpret applicant's claiming of the play devices being on the platform.